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November 23, 2015

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Notice of Oral Ex Parte Presentation
WC Docket No. 10-90**

Dear Ms. Dortch:

On November 20, 2015, Alex Phillips, President of the Wireless Internet Service Providers Association ("WISPA") and CEO of Highspeedlink, Jeff Kohler, Co-Founder and Chief Development Officer of JAB Wireless, Inc. dba Rise Broadband, Jimmy Carr, CEO of All Points Broadband, Jonathan Allen of Rini O'Neil, PC and undersigned counsel to WISPA, met with Commissioner Michael O'Rielly and his legal assistant, Amy Bender. The purpose of the meeting was to present WISPA's views and concerns about the proposed order on circulation that would establish the framework for competitive bidding in Phase II of the Connect America Fund ("CAF") program.

The WISPA representatives explained that there is significant interest among fixed wireless Internet service providers ("WISPs") in participating in the competitive bidding process. Mr. Kohler of JAB Wireless, the parent of Skybeam, LLC ("Skybeam"), noted that Skybeam had been selected to receive \$16.9 million for 10 rural broadband experiment projects, all of which would use unlicensed spectrum to meet the coverage requirements. Mr. Kohler stated that Skybeam relies on competitive and upgradable technology and unlicensed spectrum that can be quickly deployed, which had been thoroughly vetted by Commission staff prior to Skybeam's selection. Messrs. Carr and Phillips, who operate smaller companies, indicated their strong interest in bidding for CAF support.

The WISPA representatives identified several specific concerns with the proposed framework. If not properly addressed, these issues would effectively preclude WISPs from competing in the competitive bidding process, a result that would limit participation, limit the areas subject to support and result in an inefficient allocation of limited resources to deployments of access technologies that are far less cost-effective than unlicensed fixed wireless technology. These concerns are as follows:

First, the WISPA representatives opposed any technology-specific funding categories and strongly objected to a requirement for Category 2 that bidders use only licensed spectrum for their deployments. WISPs have a track record of successfully building fixed broadband networks with unlicensed spectrum in a cost-effective way – roughly one-fifth the cost of wireline technologies, as Mr. Kohler explained. The WISPA representatives explained that it would be inconsistent for the framework to relegate to Category 3 those service providers that deploy networks using unlicensed spectrum when those providers can meet all of Category 2’s speed, usage allowance and latency criteria. Mr. Kohler noted that interference would be much less of an issue in rural areas where there is little to no contention for spectrum, and that a variety of technology solutions, including small cells, could be deployed to meet the coverage requirement, as Skybeam’s rural broadband experiment projects demonstrated.

Second, the WISPA representatives object to a “waterfall” competitive bidding process that would award funds first to all Category 1 (fiber-to-the-premises) proposals, then would award any remaining funds to Category 2 proposals, then would award any remaining funds to Category 3 proposals. Instead, the WISPA representatives support a technology-neutral approach that is based on cost-effectiveness – priority should be given to the proposals that provide broadband meeting the speed, usage allowance and latency requirements to the most locations using the least federal support.

Third, the WISPA representatives asked the Commission to expand eligibility for banks issuing letters of credit to those that are outside the top-100 banks.¹ Mr. Phillips explained that small WISPs have strong relationships with smaller, community banks that understand the WISP business and are familiar with their business and financial models. Mr. Kohler noted that some top-100 banks did not want to participate in the rural broadband experiment program. The WISPA representatives pointed out that requiring a top-100 bank to provide letters of support would foreclose participation from smaller companies.

Fourth, consistent with a proposal advanced in the ACA Letter, WISPA suggested that the framework include a third alternative for pre-auction financial qualification that would allow bidders with three-year broadband track record to post a reasonable upfront amount of money in lieu of audited financial statements. The upfront amount would be refunded if the bidder was unsuccessful; for successful bidders using this option, the money would be refunded and applied to funding a post-auction audit. Mr. Phillips explained that small broadband providers do not typically have audited financial statements. Mr. Carr explained that the cost to prepare an audit can be in the \$50,000 range and that smaller ISPs with a three-year track record should not be required to pay for audits on a speculative basis as a precondition for competing in the auction.

Fifth, the WISPA representatives urged the Commission to rely on the most current FCC Form 477 information available at the time competitive bidding begins to establish the final list of available census blocks. Doing so would encourage continued build-out by “unsubsidized competitors” and obviate the need for a time-intensive challenge process.

¹ See Letter from Thomas Cohen, Counsel to the American Cable Association (“ACA”), to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed Nov. 13, 2015) (“ACA Letter”).

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In conclusion, the WISPA representatives emphasized that the proposed framework would preclude participation by small broadband providers. In particular, any one of the first four concerns would be extremely problematic; collectively, the impact would be far worse for both WISPs that want to participate and the American public that would benefit from greater auction participation and cost-effective broadband service.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being filed electronically via the Electronic Comment Filing System in the above-captioned proceeding.

Respectfully submitted,



Stephen E. Coran
Counsel to WISPA

cc: Commissioner Michael O'Rielly
Amy Bender